



DRAFT

Washington, D.C. 20530

October 25, 1990

MEMORANDUM

To: Tom Reinhardt
Director of Congressional Relations
Office of Legislative Affairs

From: Laurence A. Urgenson
Chief, Fraud Section
Criminal Division

Re: Banca Nazionale del Lavoro -- House Banking Committee Inquiry

We have reviewed your draft procedure, distributed at yesterday afternoon's meeting, concerning the production and review of documents to be requested by the House Banking Committee from the Treasury, Commerce and Agriculture Departments, the Export-Import Bank and the Federal Reserve.

Our principal concern with the draft procedure is the extent to which its implementation would appear to place this Department squarely between the Committee and the various departments and agencies whose information is sought by that Committee. Our interest in the proceedings before the Committee is limited solely to the legitimate concern of whether information concerning the criminal investigation being conducted by the U.S. Attorney's Office in Atlanta -- and potentially harmful to the successful prosecution of charges arising from that investigation -- will be disclosed. To this end, we should seek to review and make recommendations concerning only those materials which the requested parties believe contain information the disclosure of which could affect the criminal process, leaving each agency to determine for itself whether to withhold proprietary or deliberative materials. As to assertions of privilege, we believe these considerations are, for now, premature.

Accordingly, we suggest that your draft procedure be modified to provide -- as to the agencies' responses and the transmittal of materials to the Committee -- that:

- o Agencies [to] identify materials which, if disclosed publicly, could affect the criminal process.

o Agencies [to] provide sufficient notice of the request and access to such materials to DOJ so that review of the materials may be conducted without delay to the Committee.

o Agencies [to] advise DOJ in the event privilege problems arise.

o Agencies [to] make independent transmittal of requested materials to the Committee, with acknowledged courtesy copy to DOJ.

o Agencies [to] make independent arrangements with the Committee for receipt of materials.

o DOJ to make independent representation to the Committee with respect to its views as to the public dissemination of materials relating to the pending criminal investigation[s].